
(1975) 09 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 204 of 1973

Shri Prithi Pal Singh

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 10-09-1975

Acts Referred:

Punjab Municipal Act, 1911 — Section 232

Citation : (1975) 09 P&H CK 0013

Hon'ble Judges : Pritam Singh Pattar, J;D.S. Tewatia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Pritam Singh Pattar, J.—By this judgment the following two letters patent appeals, which are directed against the judgment dated March 2, 1973, of a learned Single Judge of this Court will be decided:

(1) L.P.A. No. 204/1973-Prithipal Singh v. State of Punjab and others.

(2) L.P.A. No. 517/1973-State of Punjab v. Birbal Kumar and others.

The facts of this case are that the Municipal Committee Bassi Pathana, District Patiala, consisted of 13 elected and 4 co-opted members. Prithipal Singh, a member of the Municipal Committee, on July 19, 1972. It appears that Prithipal Singh Appellant lost the confidence of the members of the committee and twelve Municipal Commissioners submitted a requisition for holding a meeting for passing a no-confidence motion against him. The meeting was held on October 30, 1972, and on that day no-confidence motion was passed by a majority of more than two-third members of the Committee present against Prithipal Singh Appellant, and the copy of the extract of the relevant proceedings of that meeting is Annexure "B" to the writ petition. However, this resolution was not accepted by the Deputy Commissioner. Patiala, and in exercise of his powers u/s 232 of the Punjab Municipal Act, 1911, he set aside this no-confidence motion on the ground that the election as President of Prithipal Singh had not been

approved and notified and as such he could not be removed from the office of President under the no-confidence motion, vide order dated December 7, 1972, copy whereof is Annexure "D" to the writ petition. However, letter on the election of Prithipal Singh, member Municipal Committee, Bassi Pathana as President to the said Committee, was approved by the Government and it was notified u/s 24 of the said Act in the official Gazette, vide notification dated January 2, 1973, whose copy is Annexure "E" to the writ petition. Feeling aggrieved Birbal Kumar and 11(sic) other members of the Municipal Committee Bassi Pathana filed writ petition to quash the order dated December 7, 1972, Annexure "D" passed by the Deputy Commissioner as well as the notification Dated January 2, 1973, Annexure "E" to the writ petition, on the allegations that these are wrong, illegal, void and without jurisdiction.

2. In view of the law laid down in *Jagjit Singh Marwaha v. The State of Haryana* 1968 Cur. L.J. 643, this writ petition was allowed by a learned Single Judge of this Court on March 2, 1973, and the impugned order of the Deputy Commissioner Patiala, Annexure "D" and the notification dated January 2, 1973, Annexure "E" to the writ petition, were quashed. Feeling aggrieved, Prithipal Singh filed Letters Patent Appeal No. 204 of 1973 alleging that the decision of the Learned Single Judge is wrong and incorrect and it may be set aside and the writ petition filed by Birbal Kumar and others may be dismissed. The State of Punjab also filed Letters Patent Appeal No. 517 of 1973 to set aside the impugned judgment of the learned Single Judge. Both these appeals came up for hearing before Hon'ble Harbans Singh Chief Justice (as he then was) and Hon'ble Prem Chand Jain, J. After hearing the counsel for the parties, the Division Bench decided that in view of the conflict of decision in *Jagjit Singh Marwaha's* case (supra) and the decision in *re: Amar Nath Bahandari v. Pritam Singh Kamedan* C.W. No. 4899 of 1971, decided on January 28, 1972, these two letters patent appeals should be decided by a larger Bench in view of the important point of law involved. The following question was therefore, referred for decision to the Full Bench:

Whether approval and notification of the State Government are necessary before the President elect can start functioning as such and whether a no confidence resolution can be passed against him before such approval and notifications?

3. This question came up for hearing before a Full Bench consisting of Hon'ble Harbans Singh Chief-Justice (as he then was) Hon'ble B.R. Tuli J. and Hon'ble P.C. Jain, J. The Full Bench decided this question as follows by its judgment dated November 21, 1973:

Approval of the State Government is necessary before the President can start functioning as such and a no-confidence resolution cannot be passed against him before such approval is accorded and that it is only after the approval of the State Government that the President elect can assume office and start functioning as such.

After the decision, the Full Bench sent back both these letters patent appeals for decision on merits and that is how these appeals are before us.

4. Mr. O.P. Goyal, the Learned Counsel for Birbal Kumar and others, Respondents Nos. 3 to 13, conceded that in view of the above-mentioned decision of the Full Bench, both the letters patent appeals have to be allowed. He did not consider it proper to argue on some other minor points raised in the grounds of appeal. Since these appeals have to be allowed therefore, no useful purpose will be served in a hearing arguments on other minor point. (According to Section 20(1) of the Punjab Municipal Act, 1911, every Committee is to elect one of its members to be its President, and the member so elected shall if approved, by the State Government. Becomes President of the Committee. Prithipal Singh Appellant was elected as President by the Committee on July 19, 1972. The no confidence motion against him was passed by the members of the Committee in a meeting held on October 30, 1972, and till then the election of Prithipal Singh as President had not been approved by the State Government. Therefore, the impugned order dated December 7, 1972, copy of which is Annexure "D" to the writ petition passed by Deputy Commissioner suspending the resolution of no-confidence passed by the members of the Municipal Committee, Bassi Pathana, is perfectly valid legal and the writ petition filed by Birbal Kumar and others, therefore, must fail. The election of Prithipal Singh as President of the Municipal Committee, Bassi Pathana, was approved by the Government and it was notified in the Official Gazette vide notification dated January 2, 1973, copy where of is Annexure "E" to the writ petition.

5. For the reasons given above, both the letters patent appeals Nos. 204(sic) of 1973 and 517 of 1973 are accepted and the judgment dated March 2, 1973, of a learned Single Judge of this Court is set aside and the writ petition filed by Birbal Kumir and others, Respondents, is dismissed. There will be no order as to costs.

D.S. Tewatia

6. I agree.